



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,156	07/18/2005	Heiner Sann	08146.0007U1	8087
23859 7590 09/14/2007 NEEDLE & ROSENBERG, P.C. SUITE 1000 999 PEACHTREE STREET ATLANTA, GA 30309-3915			EXAMINER SCHNEIDER, CRAIG M	
			ART UNIT 3753	PAPER NUMBER
			MAIL DATE 09/14/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

ED

Office Action Summary	Application No. 10/530,156	Applicant(s) SANN ET AL.	
	Examiner Craig M. Schneider	Art Unit 3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2007.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-18 is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☒ Claim(s) 12 and 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 8/6/07 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings were received on 8/6/07. These drawings are acceptable.

Claim Objections

2. Claim 11 is objected to because of the following informalities: In line 2 "a container" should be --a second container--. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 1-4, 9, and 14 are rejected as understood under 35 U.S.C. 102(b) as being anticipated by Endo et al. (4,501,161).

Endo et al. disclose a device for extracting liquid samples from containers and/or tubes filled with a medium via a filter membrane by means of a partial vacuum, characterized in that the filter membrane (11 and 11') arranged within a sample probe comprises a material acting as a sterile boundary, whereby a supply line (4) which can be used to guide gas and a discharge line (4') which can be used to guide the sample are arranged on the sterile boundary side of the filter membrane (col. 2, line 12 to col. 3, line 13).

Regarding claim 14, wherein the discharge line is connected to a device (5) acting as a valve.

5. Claims 1-5, 9, and 14 are rejected as understood under 35 U.S.C. 102(b) as being anticipated by Kenkyusho et al. (JP60219539).

Kenkyusho et al. disclose a device for extracting liquid samples from containers and/or tubes filled with a medium via a filter membrane by means of a partial vacuum, characterized in that the filter membrane (4) arranged within a sample probe comprises a material acting as a sterile boundary, whereby a supply line (9 to 11) which can be used to guide gas and a discharge line (9 to 10) which can be used to guide the sample are arranged on the sterile boundary side of the filter membrane (abstract).

Regarding claim 5, the device characterized in that the supply line which is able to guide gas is connected to a first gas-bearing connecting line to connect the supply line to a gas supply connection (area before 11).

Regarding claim 14, wherein the discharge line is connected to a device (9) acting as a valve.

Claim Rejections - 35 USC § 103

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claim 6 is rejected as understood under 35 U.S.C. 103(a) as being unpatentable over Kenkyusho et al.

Kenkyusho et al. discloses that a valve (9) is arranged in the area of the first end of the connecting line. Kenkyusho et al. does not disclose that a second valve is arranged in the second end of the connect ling line.

The examiner takes official notice that putting a second valve in a line is old and well known in the art and would be combined with the device of Kenkyusho et al. for reasons that are old and well known in the art.

9. Claim 7 is rejected as understood under 35 U.S.C. 103(a) as being unpatentable over Kenkyusho et al. in view of Burch (5,316,181).

Kenkyusho et al. disclose all the features of the claimed invention except that a pressure sensor is arranged in the gas-bearing connecting line. Burch discloses using a pressure sensor (46) in a system (col. 6, lines 29-30).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the pressure sensor of Burch in the gas supply line of Kenkyusho et al., in order to sense the pressure.

10. Claim 8 is rejected as understood under 35 U.S.C. 103(a) as being unpatentable over Kenkyusho et al. in view of Froelich (3,428,413).

Kenkyusho et al. disclose all the features of the claimed invention except that the gas bearing line contains a sterile filter. Froelich discloses using a sterile air filter (26) in a gas line (col. 3, lines 36-42).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the sterile filter of Froelich onto the gas line of Kenkyusho et al., in order to eliminate the germs.

11. Claims 10-11 are rejected as understood under 35 U.S.C. 103(a) as being unpatentable over Kenkyusho et al. in view of Furness (5,636,763).

Kenkyusho et al. disclose all the features of the claimed invention except that the supply line is connected to a second rinsing liquid-bearing connecting line. Furness discloses using a water flush mode to clean the system as seen in Figure 6 (col. 11, lines 4-8).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the flush mode of Furness onto the system of Kenkyusho et al, in order to flush the system of unwanted material.

Regarding claim 11, wherein the rinsing liquid bearing line is connected to a second container (51 in Furness) containing a rinsing liquid.

Allowable Subject Matter

12. Claims 15-18 are allowed.

13. Claims 12 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

14. Applicant's arguments filed 8/6/07 have been fully considered but they are not persuasive. The applicant is arguing that the filter media of both Endo et al. and

Art Unit: 3753

Kenkyusho et al. is not a sterile boundary. The examiner disagrees with this and asserts that the filter media of both Endo et al. and Kenkyusho et al. create a sterile boundary between the container containing the media and the sample tube that pulls the sample through the filter. The purpose of the filter is to eliminate unwanted media and therefore is a sterile boundary. The applicant noted that appears that the examiner mixed up the supply and discharge lines of Kenkyusho et al. The examiner has altered the rejection as disclosed above and therefore the above argument for Kenkyusho et al. is moot.

Conclusion

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Craig M. Schneider whose telephone number is (571) 272-3607. The examiner can normally be reached on M-F 8:30 -5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CMS *CMS*
September 6, 2007


JOHN RIVELL
PRIMARY EXAMINER
ART UNIT 347

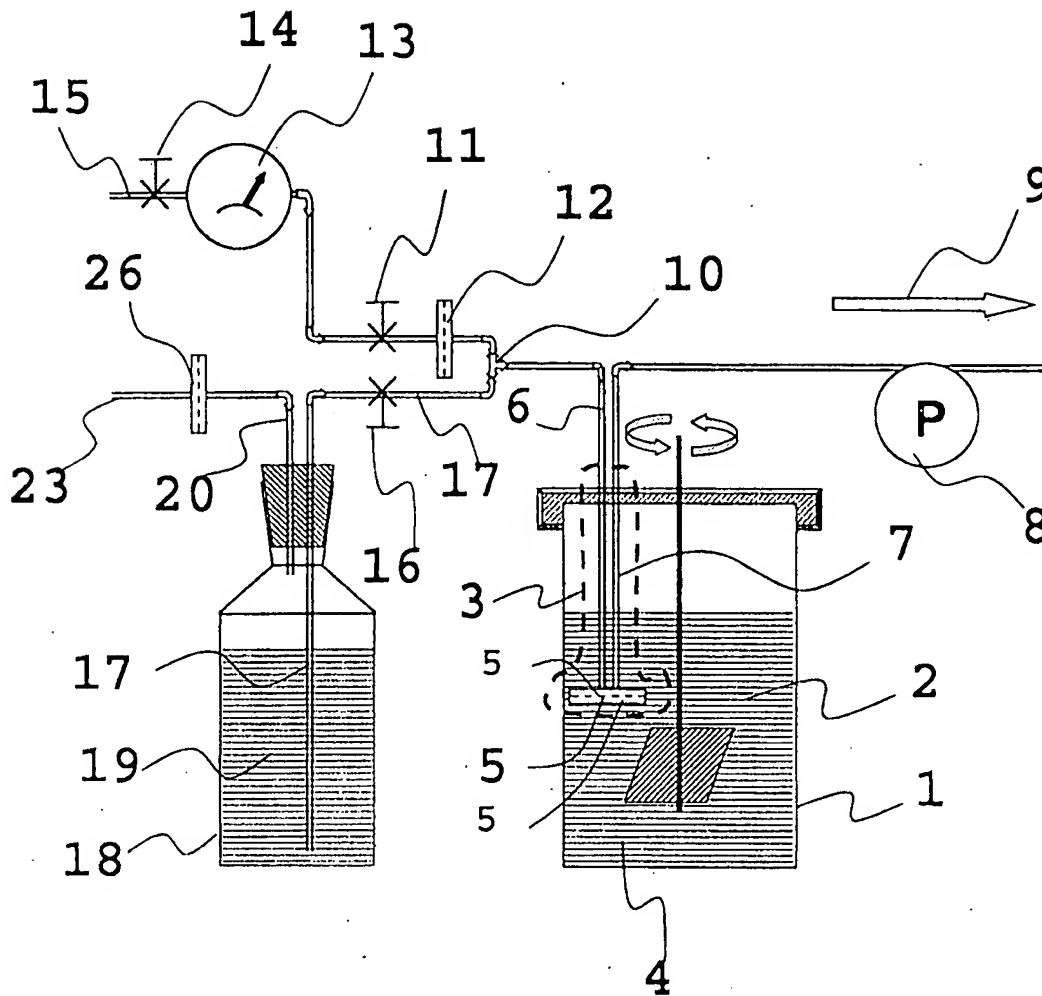


Fig. 1

Approved

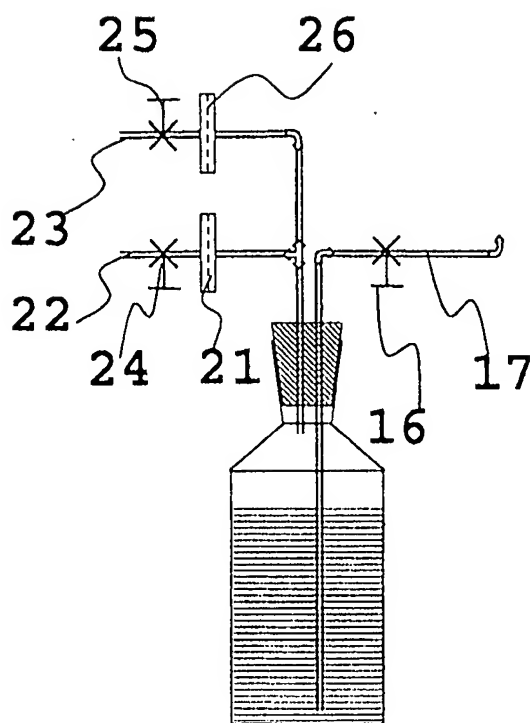
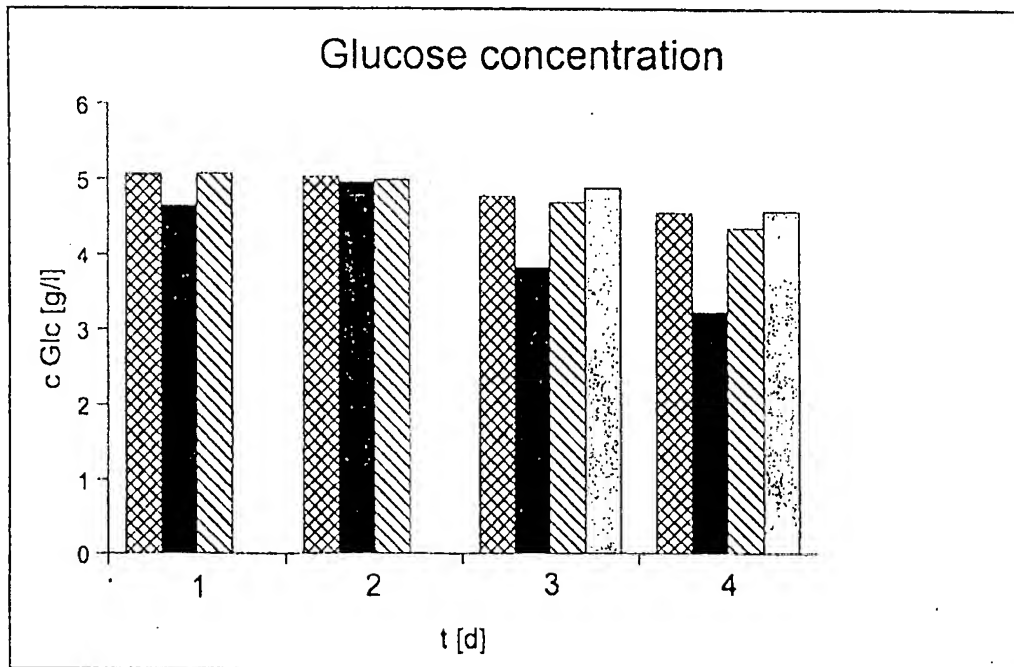


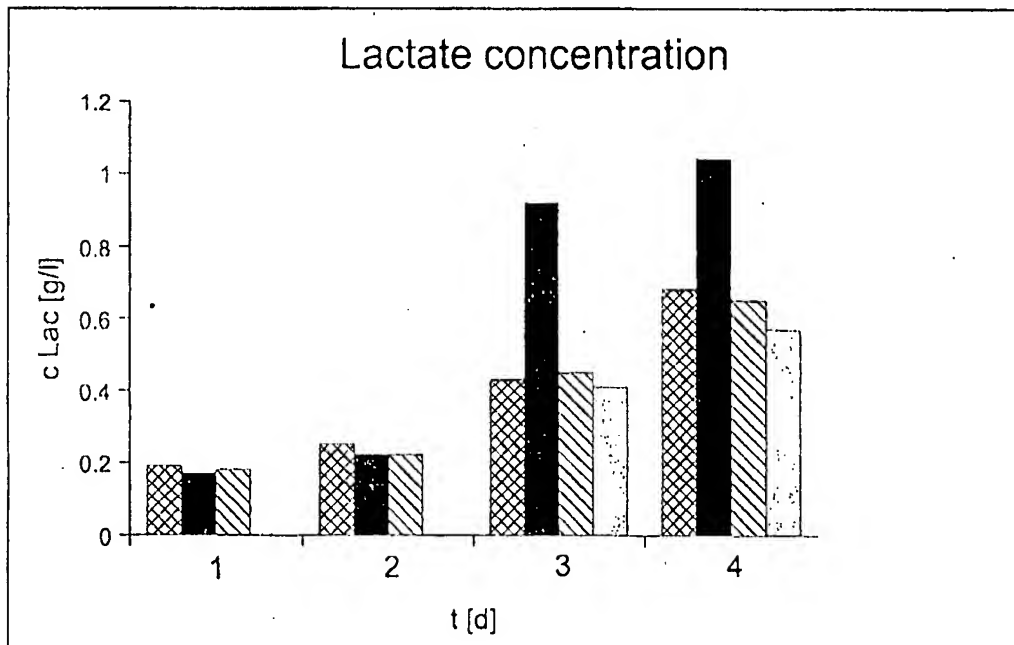
Fig. 2

Approved



- ▨ Sample with device according to the invention
- Sample with a conventional device
- ▧ Sample with a conventional device
- Sample with a conventional device

Fig. 3



- ▨ Sample with device according to the invention
- Sample with a conventional device
- ▧ Sample with a conventional device
- Sample with a conventional device

Fig. 4

Approved